IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :26196 of 1998

-

-

-

Dated: 26th June 2007.

-

Between:

Bharat Heavy Plate and Vessels Employees Cooperative Thrift and Credit Society Limited, Visakhapatnam – 530 012, rep. by its Secretary.

..... PETITIONER

AND

The Deputy Registrar of Cooperative Societies, Visakhapatnam and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

-

W.P.NO.26196 OF 1998

ORAL ORDER:

Heard Sri Rupender P. Waghray for Sri D.V.Seetharam Murthy, learned counsel for the writ petitioner-Society. Though the 2nd respondent was served with notice, there is no representation on his behalf.

The writ petitioner is a Cooperative Society. It instituted this writ petition questioning the order passed by the 1st respondent herein, i.e., the Deputy Registrar of Cooperative Societies, Visakhapatnam, dated 27-04-1988, whereby he ordered for reinstatement of the 2nd respondent back into service granting liberty to the Society to impose a reasonable punishment other than deprival of job.

The 2nd respondent had filed a petition invoking the jurisdiction of the 1st respondent, as he has been discharged from the service of the writ petitioner-Society in terms of its special byelaw No-10. The said petition has been entertained by the 1st respondent without considering the power and jurisdiction available with him to entertain such disputes. It is not in dispute that pursuant to an enquiry conducted into the management and affairs of the Society, under Section 50 of the Andhra Pradesh Cooperative Societies Act, 1964 (henceforth

referred to as 'the Act'), a huge sum of over Rs.8-00 lakhs of the Society has been found misappropriated. Therefore, suspecting the integrity of certain employees, the Society initiated disciplinary action and based upon the report submitted by the Enquiry Officer, holding the employees concerned guilty, they were inflicted with the punishment of discharge from service. At this stage, it will be relevant and useful to extract the provisions contained under Section 61 of the Act, which are as under:

> " **61. Disputes which may be referred to the Registrar:-** (1) Notwithstanding anything in any law for the time being in force, if any dispute touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society, arises-
>
> (a) among members, past members and persons claiming through members, past members and deceased members ; or
>
> (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society ; or
>
> (c) between the society or its committee, and any past committee, any officer, agent or employee, or any past officer, past agent, or past employee or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased employee of the society ; or
>
> (d) between the society and any other society,
>
> such dispute shall be referred to the Registrar for decision.
>
> xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx"

A perusal of Section 61 of the Act makes the position abundantly clear that the power of the 1st

respondent to enter upon a reference of dispute, adjudicate and settle the same, is confined to all such disputes other than a dispute regarding the disciplinary action taken by a Society or its Managing Committee against its paid employee. The express words chosen by the Legislature, make the position absolutely clear that other than a dispute touching upon the disciplinary action taken by a Cooperative Society against its paid employee, the rest of the disputes can be entered upon to adjudicate and be decided by the Registrar of Cooperative Societies. Unfortunately, in the present case, the dispute raised by the 2nd respondent is exclusively centering around the disciplinary action initiated and taken by the Society against him, over which, the 1st respondent-Deputy Registrar has not been conferred with the power to adjudicate upon. He has, obviously, mistaken the order passed by this Court on the previous occasion when the matter has been remitted for fresh consideration, since, the Deputy Registrar concerned has passed the order without providing an opportunity to the writ petitioner- Society. For the sheer failure to comply with the principles of natural justice of affording an opportunity to the writ petitioner-Society, this Court had to remand the matter back for fresh consideration on the earlier occasion and while remanding so, it would be wholly inappropriate to express any opinion on the merits of the matter and that

is the reason why, no opinion could have possibly been expressed. The order of remand has not relieved the Deputy Registrar concerned from his obligation to examine the power and jurisdiction vested with him to enter upon a reference of dispute and adjudicate the same in terms of Section 61 of the Act. Therefore, on the ground of failure on the part of the Deputy Registrar to examine the limits of his power and jurisdiction, the impugned order is patently illegal. The power, which was not conferred upon the Deputy Registrar and, in fact, specifically excluded from his purview by the Statute, had been usurped by him and hence, the order passed by him on 27-04-1988, deserves to be *set aside* for the reason that he does not have the power to adjudicate upon any dispute relating to the disciplinary action taken by the Society against its paid employee.

For the foregoing discussion, the writ petition is liable to be allowed and it is, accordingly, allowed quashing the impugned order dated 27-04-1988 passed by the Deputy Registrar of Cooperative Societies, Visakhapatnam, but however, without costs.

Nooty Ramamohana Rao, J

26th May 2007
mrk